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If this Bid Package is downloaded via the Internet, you will need to submit your signed bid documents in a sealed envelope with the following information on the envelope as provided in the sample below:

YOUR RETURN ADDRESS

**Agreement No.** 10A0846

**Bid Due Date:** 10/10/06

**Bid Due Time:** 2:15 P.M.

**Bid Opening Time:** 2:30 P.M.

**Attn:** Calandra J. Tillman

Department of Transportation  
Division of Procurement and Contracts, MS-65  
1727 30th Street  
Sacramento, CA 95816-7006

**DEPARTMENT OF TRANSPORTATION****ADMINISTRATION**

DIVISION OF PROCUREMENT AND CONTRACTS MS-65

1727 30<sup>TH</sup> STREET

SACRAMENTO, CA 95816-7006

PHONE (916) 227-6124

FAX (916) 227-6155

TTY (800) 735-0193 or (916) 227-2857

INTERNET <http://caltrans-opac.ca.gov>*Flex your power!  
Be energy efficient!***August 23, 2006**

**INVITATION FOR BID (IFB)  
IFB # 10A0846  
Notice to Prospective Contractors**

You are invited to review and respond to this Invitation for Bid (IFB), entitled **IFB 10A0846, for Maintenance, Repair, Inspection, Set-up, Break-Down, and Relocation of the GAZEX Avalanche Control Systems on Red Lake/Carson Pass and Carson Spur**. In submitting your bid, you must comply with the instructions found herein.

Note that all contracts entered into with the State of California, Department of Transportation (State) will include, by reference, General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded at Internet site <http://www.ols.dgs.ca.gov/Standard+Language>. If you do not have Internet access, a hard copy can be provided by contacting the Bid Unit: Telephone Number (916) 227-6075 or Fax Number (916) 227-1950.

In the opinion of the State, this IFB is complete and without need of explanation. However, if you have questions\*, or should you need any clarifying information, the designated contact person for this IFB is:

Calandra J. Tillman  
**California Department of Transportation**  
Telephone Number (916) 227-6124  
Fax Number (916) 227-6155

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Calandra J. Tillman  
Contract Analyst

\*Technical questions regarding this solicitation will be addressed, in writing, in accordance with the Questions and Answers portion of this IFB. See **Section C 1, Time Schedule** for more details.

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## A) Purpose and Description of Services

Contractor agrees to provide all labor, equipment, tools, materials and incidentals on an on-call basis for the maintenance, repair, inspection, set-up and break-down, and relocation of the GAZEX Avalanche control systems on Red Lake/Carson Pass and Carson Spur for a period of three (3) years to the Department of Transportation (Department).

The contractor shall be knowledgeable of GAZEX maintenance and operations including but not limited to the following:

1. Ability to access steep mountainous terrain, have knowledge of avalanche and avalanche zones, be prepared to work at high altitude and snow covered terrain during fair or adverse weather conditions.
2. Knowledge of programming and servicing the remote control for the electronic firing module.
3. Knowledge in testing and trouble shooting the PIEZO – Electric Igniter systems and components during extreme weather conditions.

For a more complete description of services, refer to the **Proposed Form of Agreement, Exhibit A, Scope of Work**, which is attached to this IFB as **Attachment 5**.

## B) Bidder's Minimum Qualifications

Class A license is required.

## C) Bid Requirements and Information

### 1. Time Schedule

It is recognized that time is of the essence. All bidders are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

Enter **TIME** - ONLY if Applicable

| EVENT                                  | DATE               | TIME<br>(Pacific Daylight Time) |
|--|--------------------|---------------------------------|
| IFB available to prospective bidders   | August 23, 2006    |                                 |
| Written Question Submittal             | September 12, 2006 |                                 |
| Final Date and Time for Bid Submission | 10/10/06           | 2:15 PM                         |
| Bid Opening                            | 10/10/06           | 2:30 PM                         |

## 2. Questions and Answers

- a) Questions regarding this IFB must be submitted in writing. Bidders are encouraged to submit their written questions by **September, 12, 2006**.
- b) Written questions must include the individual's name, firm name, complete address and must reference IFB No. 10A0846. Questions must be sent to the following address:

MAILED OR FAXED TO:  
Fax No.: (916) 227-6155

California Department of Transportation  
Division of Procurement and Contracts, MS-65  
Attention: Calandra J. Tillman  
1727 30th Street  
Sacramento, CA 95816

- c) Written responses to all questions will be collectively compiled and mailed, as an Addendum, to each individual or firm who downloaded this IFB from the Internet or who requested this IFB by calling the recorded bid line: (916) 227-6090. Hard copy responses are disseminated by mail and an electronic version is uploaded to the California Department of Transportation's website. Refer **Section C (1), Time Schedule**, for this IFB's schedule of events and dates/times. It is the responsibility of the Bidder to inquire about an expected Addendum if the Addendum is not received. Bidder can contact the Contract Analyst named above or check the California Department of Transportation's website:

<http://www.caltrans-opac.ca.gov/contract.htm>

## 3. Inclusive Costs

Bid prices/rates shall include the cost of employer payments to or on behalf of employees, subsistence, travel, compensation insurance premiums, unemployment contributions, social security taxes, contract bond premiums, and any other taxes or assessments, **including but not limited to, sales and use taxes** required by law or otherwise and no additional allowance will be made thereof unless separate payment provisions in the Agreement should specifically so provide.

## 4. Small Business Preference: <http://www.pd.dgs.ca.gov/smbus>

Small business preference will be granted on this IFB. Only firms certified as a "Small Business" or "Microbusiness" with the Department of General Services, Office of Small Business Certification and Resources (formerly OSMB) or Contractors who commit to subcontracting a minimum of 25% of their net bid price to Small Businesses or Microbusinesses, in the categories most appropriate to accomplish the prescribed services, will be granted this preference.

## 5. State Prevailing Wages

State General Prevailing Wage Rates will apply for the Counties of Amador and Alpine as described in the attached **Proposed Form of Agreement (Attachment 5)**. Copies of the predetermined general prevailing wage rates set by the Director of Industrial Relations may be obtained by contacting Charlene Anderson, Labor Compliance Officer, District 5,6,9, &10, 855 "M" Street, Suite 200, Fresno, CA 93721, Phone (559) 445-6375. Copies may also be obtained via the Internet: <http://www.dir.ca.gov>

## 6. Recycle Certification

Your signature affixed hereon and dated on the attached Bid/Bidder Certification Sheet shall signify that you are aware of the recycle materials, goods, and supplies program requirements of California Public Contract Code Sections 12200, 12205, and 12161, and that the recycle content certification will be required for the successful contractor. The awarded bidder will be required to complete a Recycle Content Certification Form (ADM-2038) and provide the form with the signed agreement. An incomplete form or failure to provide a completed form will result in cancellation of the contract.

## 7. Contractor License

Bidder must have, at time of bid submittal and for the duration of the contract, a valid, current **Class A** license issued by the California Contractor's State License Board, for the type of work to be performed. Bidder shall obtain, pay for and maintain, in good standing, all necessary licenses and permits to accomplish the work. Bidders will be considered non-responsive unless proper licensing requirements are met. An invalid license will result in rejection of the bid. Positive verification of a valid license issued by the California Contractor's State License Board will be performed by Caltrans (reference B&PC 7028.15).

## 8. Bonds

1. If the successful bidder's bid exceeds \$5,000.00, bidder will be required to provide a payment bond and a performance bond issued by a company authorized by the California Insurance Commissioner to transact surety business in California (an admitted surety insurer). The payment bond must be written for 100% of the total amount of the agreement. The performance bond must be written for 50% of total amount of the agreement.

## 9. Insurance

The bidder who receives the Agreement award, must provide a certificate of Insurance providing proof of insurance to the DPAC within ten (10) working days from the date of notification of award. The State's Office of Risk and Insurance Management will review insurance certificates and/or proof of self-insurance documentation before execution of the Agreement. **Refer to the Proposed Form of Agreement, Attachment 5, Exhibit E** for the applicable specific Insurance requirements and coverage limits.

## 10. Bid Submittal

- a) **All bids must** be submitted in a **sealed envelope** and received by the Department of Transportation, Contract's Office by dates and times shown in Section C, Bid Requirements and Information, **Item 1) Time Schedule**. The sealed envelope must be clearly marked with the IFB number and title; must show your firm name and address, and must be marked with "BID SUBMITTAL - DO NOT OPEN", as shown in the following example:

IFB Number: 10A0846

IFB Name: Maintenance and Repair to the GAZEX Avalanche Control System

Firm Name:

Firm Address:

**BID SUBMITTAL - DO NOT OPEN**

- b) Bids not submitted in a clearly labeled sealed envelope shall be rejected. A complete bid package (originals only) must be submitted. **Late bids will not be considered.**
- c) All bids shall include the documents identified in this IFB's **Attachment 4, Required Attachment Checklist**. Bids not including the proper "required attachments" shall be deemed non-responsive. A non-responsive bid is one that does not meet the basic bid requirements.
- d) Only an individual who is legally authorized to bind the proposing firm contractually shall sign all documents requiring a signature, and each document must bear an original ink signature.
- e) Mail or deliver bids to the following address:

U.S. Postal Service Deliveries (UPS, Express Mail, Federal Express) or \*Hand Deliveries

Department of Transportation, MS 65  
Division of Procurement and Contracts  
1727 – 30<sup>th</sup> Street  
Sacramento, CA 95816

\* If your bid is hand delivered, you must date and time stamp the sealed envelope/package immediately upon arrival. The date/time stamp machine is located in the lobby of the first floor to the right of the security guard station at the address noted above. After date/time stamping, bids should be placed in the locked bid cabinet located below the time stamp. If the bid package is too large to be electronically stamped, date/time stamp one of the labels provided and attach it to the proposal package. When the bid package is too large for the locked bid cabinet, ask the security guard to call the Contracts' reception desk at 227-6000 to have your bid package picked up by Contracts' staff.

- f) Bid opening will be held at the above address at **2:30 PM** on the date stated in **Section C - Bid Requirements and Information, 1 - Time Schedule**.

- g) Bids must include the performance of all the services described herein. Any attempt to modify the bid document to deviate from the work specifications will not be considered and will cause a bid to be rejected.
- h) A bid may be rejected if it is conditional, incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject any bid on the basis that it is not responsive or from a responsible bidder, and may waive any immaterial deviation in a bid. The State's waiver of an immaterial defect shall in no way modify the IFB document or excuse the bidder from full compliance with all requirements if awarded the agreement.
- i) Costs for developing bids and in anticipation of award of the contract are entirely the responsibility of the bidder and shall not be charged to the State.
- j) Only an individual who is authorized to bind the bidding firm contractually shall sign the attached Bid/Bidder Certification Sheet, **Attachment 3**. The signature must also indicate the title or position that the individual holds in the firm. **An unsigned bid shall be rejected.**
- k) A bidder may modify a bid after its submission by first withdrawing the original bid and then by resubmitting a new bid prior to the bid submittal deadline. Bidder modifications offered in any other manner, oral or written, will not be considered.
- l) A bidder may withdraw a bid by, prior to bid opening, submitting a written withdrawal request to the State, signed by the bidder or an agent authorized in accordance with section j above. A bidder may thereafter submit a new bid prior to the bid submittal deadline. Bids may not be withdrawn without cause subsequent to bid submittal deadline.
- m) The State may modify the IFB prior to the date fixed for submission of bids by the issuance of an addendum sent to all parties who received a bid package.
- n) The State reserves the right to reject all bids for reasonable cause.
- o) Bidders are cautioned to not rely on the State during its evaluation process to discover and report to the bidder any defects and errors in the submitted documents. Before submitting their documents, bidders should carefully proof them for errors and full adherence to the IFB requirements.
- p) Where applicable, bidder should carefully examine work sites and specifications. Bidder shall investigate conditions, character, and quality of surface or subsurface materials or obstacles that might be encountered. No additions or increases to the contract amount will be made due to a lack of careful examination of work sites and specifications.
- q) The State does not accept alternate contract language from a bidder. A bid with such language will be considered a counter proposal and will be rejected. **The State's General Terms and Conditions (GTC) are not negotiable.** The **GTC 306** may be viewed at Internet site <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.



## 11. Evaluation and Selection

- a) At the time of bid opening, each bid will be checked for the presence or absence of required information in conformance with the submission requirements of this IFB.
- b) The State will evaluate each bid to determine its responsiveness to the State's needs.
- c) Bids that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the bidder, shall be rejected.
- d) The award of the contract, if awarded, will be made to the lowest responsible and responsive bidder. A responsive bid is one that complies with all of the specifications in this solicitation. In the event of a tie bid, the State will draw lots to determine the successful contractor. Only one proposal or bid may be submitted by an entity: individual, firm, partnership, corporation, joint venture or combination thereof. Receipt of more than one bid from an entity will result in all bids from that entity being rejected and returned to the bidder.

## 12. Award and Protest

- a) Whenever a contract is awarded under a procedure that provides for competitive bidding, but the contract is not to be awarded to the low Bidder, the low Bidder shall be notified by telegram, electronic facsimile transmission, overnight courier, or personal delivery five (5) working days prior to the award of the contract.
- b) Upon written request by any bidder, notice of the proposed award shall be posted in a public place in the office of the awarding agency at least five (5) working days prior to awarding the contract.
- c) Grounds for Filing a Protest: After the issuance of the applicable contract award notices as specified in this IFB, the right to protest the proposed award of a contract is afforded any bidder who claims he/she should have been awarded the agreement because he/she was the lowest responsible bidder meeting the specifications. The protest must be submitted to the Department of Transportation prior to the award of contract. In such case, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.
- d) Filing an Initial Protest: Within five (5) days after filing the initial protest, the protesting bidder shall file with the Department of General Services and the Department of Transportation a full and complete written statement specifying the grounds for the protest. The written protest must be sent to the addresses below:

|  |  |
|--|--|
| Department of Transportation<br>Division of Procurement & Contracts, MS 65<br>Attention: Protest and Dispute's Analyst<br>1727 30 <sup>th</sup> Street<br>Sacramento, CA 95816<br>Phone Number: (916) 227-6096<br>Fax Number: (916) 227-6155 | Department of General Services<br>Office of Legal Services<br>Attention: Protest Coordinator<br>707 Third Street, 7 <sup>th</sup> Floor<br>West Sacramento, CA 95605<br>Phone Number: (916) 376-5080<br>Fax Number: (916) 376-5088 |
|--|--|

It is suggested that you submit any protest by certified or registered mail.

- e) Upon award of the contract, contractor must complete and submit to the Department of Transportation the Payee Data Record (STD 204), to determine if the contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code §18662 and §26131. This form can be found on the Internet at [www.osp.dgs.ca.gov](http://www.osp.dgs.ca.gov) under the heading STANDARD FORMS. No payment shall be made unless a completed STD 204 has been returned to the Department of Transportation.
- f) Prior to the award of the contract, the awarded bidder(s) must sign and submit to the Department of Transportation, page one (1) of the Contractor Certification Clauses (CCC), **Attachment 2**, or this form can be obtained via the Internet at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>. Bidder may also, as an option, submit with bid package.

### 13. Standard Conditions of Service

- a.) Service shall not begin prior than the express date set by the Department of Transportation and the contractor, after all approvals have been obtained, and the agreement is fully executed. Should the contractor fail to commence work at the agreed upon time, the Department of Transportation, upon five (5) days written notice to the contractor, reserves the right to terminate the agreement. In addition, the contractor shall be liable to the State for the difference between contractor's bid price and the actual cost of performing work by the second lowest Bidder or by another contractor.
- b.) All performance under the contract shall be completed on or before the termination date of the contract.
- c.) The bidder declares that the only persons or parties interested in this bid proposal as principals are those named herein; that this bid proposal is made without collusion with any other person, firm or corporation; and the bidder has carefully examined the Invitation for Bid (IFB), the Proposed Form of Agreement, and the special provisions herein referred to, and proposes and agrees, if this proposal is accepted, that the bidder will contract with the State to provide all necessary labor, materials, tools or equipment in the time and manner specified.
- d.) If the bidder is awarded the contract and refuses to sign the contract presented for signature within the time and manner required, the bidder will be liable to the Department of Transportation for actual damages resulting to the Department therefrom of 10% of the amount bid, whichever is less.

e.) No oral understanding or agreement shall be binding on either party.

## D) Special Programs

The following Special Programs are applicable to this IFB.

### 1. Small Business or Microbusiness Preference

If prospective Contractor is claiming the 5% certified Small Business or microbusiness preference, complete Section 16, **Attachment 3 (Bid/Bidder Certification Sheet)** .

Additional References: <http://www.pd.dgs.ca.gov/smbus/default.htm>

Section 14835, et seq. of the California Government Code requires that a five-percent preference be given to contractors who qualify as a certified small business or microbusiness. The rules and regulations of this law, including the definition of a small business for the delivery of services, are contained in Title 2, California Code of Regulations, Section 1896, et seq. To claim the small business or microbusiness preference, your firm must have its principal place of business located in California and be certified by the Department of General Services, Office of Small Business Certification and Resources. The preference amount may not exceed \$50,000 for any bid.

Small business and microbusiness bidders shall have precedence over non-small business bidders in the application of any bidder preference for which non-small business bidders may be eligible.

Questions regarding the certification approval process or Small Business program should be directed to that office at (800) 559-5529 or (916) 375-4940. For the 24-Hour Recording & Mail Request call (916) 322-5060.

**ATTACHMENT 2**  
**CONTRACTOR CERTIFICATION CLAUSES**

**CCC-1005****CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

|   |                                  |
|---|----------------------------------|
| <i>Contractor/Bidder Firm Name (Printed)</i>    | <i>Federal ID Number</i>         |
| <i>By (Authorized Signature)</i>                |                                  |
| <i>Printed Name and Title of Person Signing</i> |                                  |
| <i>Date Executed</i>                            | <i>Executed in the County of</i> |

**I. CONTRACTOR CERTIFICATION CLAUSES**

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

## **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION**: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT**: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE**: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
  - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
  - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

**ATTACHMENT 3**  
**BID/BIDDER CERTIFICATION SHEET**

This Bid/Bidder Certification Sheet must be signed and returned along with all "required attachments" as an entire package in duplicate with original signatures. The bid must be transmitted in a sealed envelope in accordance with IFB instructions. Only an individual who is authorized to bind the bidding firm contractually shall sign the Bid/Bidder Certification Sheet. The signature must indicate the title or position that the individual holds in the firm.

- A. Our all-inclusive bid is submitted in a sealed envelope marked "**Bid Submittal - Do Not Open**".
- B. All required attachments are included with this certification sheet.
- C. The signature affixed hereon and dated certifies compliance with all the requirements of this bid document. The signature below authorizes the verification of this certification.
- D. The signature and date affixed hereon certifies that this bid is a firm offer for a 90-day period.

**An Unsigned Bid/Bidder Certification Sheet Shall Be Rejected**

|  |   |   |
|--|---|---|
| 1. Company Name  | 2. Telephone Number<br>(    )           | 2a. Fax Number<br>(    )                |
| 3. Address   |   |   |
| Indicate your organization type:   |   |   |
| 4. <input type="checkbox"/> Sole Proprietorship  | 5. <input type="checkbox"/> Partnership | 6. <input type="checkbox"/> Corporation |
| Indicate the applicable employee and/or corporation number:  |   |   |
| 7. Federal Employee ID No. (FEIN)  | 8. California Corporation No.           |   |
| Indicate applicable license and/or certification information:  |   |   |
| 9. Contractor's State Licensing<br>Board Number  | 10. PUC License Number<br>CAL-T-        | 11. Required                            |
| 12. Proposer's Name (Print)  | 13. Title                               |   |
| 14. <b>Signature</b>   | 15. Date                                |   |
| 16. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:  |   |   |
| a. Small Business Enterprise      Yes <input type="checkbox"/> No <input type="checkbox"/><br>If yes, enter certification number: _____  |   |   |
| b. Disabled Veteran Business Enterprise      Yes <input type="checkbox"/> No <input type="checkbox"/><br>If yes, enter your service code below: _____  |   |   |
| <b>NOTE:</b> A copy of your Certification is required to be included if either of the above items is checked " <b>Yes</b> ".<br>Date application was submitted to OSBCR, if an application is pending: _____ |   |   |



### Completion Instructions for Bid/Bidder Certification Sheet

Complete the numbered items on the  
Bid/Bidder Certification Sheet by following the instructions below.

| Item<br>Numbers | Instructions   |
|-----------------|--|
| 1, 2, 2a, 3     | Must be completed. These items are self-explanatory.   |
| 4               | Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.   |
| 5               | Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.      |
| 6               | Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.  |
| 7               | Enter your federal employee tax identification number.   |
| 8               | Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.  |
| 9               | Complete if your firm holds a California contractor's license. This information will be used to verify possession of a contractor's license for public works agreements.   |
| 10              | Complete if your firm holds a PUC license. This information will be used to verify possession of a PUC license for public works agreements.  |
| 11              | Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.   |
| 12, 13, 14, 15  | Must be completed. These items are self-explanatory.   |
| 16              | If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR. |

**ATTACHMENT 4**  
**Invitation for Bid 10A0846**

**ATTACHMENT CHECKLIST**

A complete bid or bid package will consist of the items identified below.

Complete this checklist to confirm the items in your bid package. Place a check mark or "X" next to each item that you are submitting to the State. All attachments identified below (unless noted otherwise) are required and must be returned as instructed or your bid may be considered non-responsive. **Return this checklist with your bid package.**

| <b><u>Attachments</u></b> | <b><u>Attachment Name/Description</u></b>   |
|---------------------------|---|
| _____ Attachment 1        | Bid Proposal (ADM-1412)   |
| _____ Attachment 2        | Contractor Certification Clauses (CCC1005). The CCC 1005 can also be found on the Internet at <a href="http://www.dgs.ca.gov/contracts">http://www.dgs.ca.gov/contracts</a> . Page one (1) must be signed and submitted prior to the award of the contract. |
| _____ Attachment 3        | Bid / Bidder Certification Sheet  |
| _____ Attachment 4        | Attachment Check List   |
| _____ Attachment 5        | Proposed Sample Standard Agreement  |

**BID PROPOSAL****ATTACHMENT 1**

ADM-1412 (REV. 06/02) PAGE 1 OF 1

| CONTRACTOR'S NAME (Please Print):  |                  |              | CONTRACT NO.<br>10A0846 | PAGE<br>1 OF 1      |                       |
|--|------------------|--------------|-------------------------|---------------------|-----------------------|
| ITEM NO.   | Fiscal Year      | Job Title    | Labor Rate Per Hour     | Approximate Hours   | TOTAL<br>(In Figures) |
| 1  | 2007 / 2008      | Specialist   |                         | 250                 |                       |
| 2  | 2007 / 2008      | Welder / Fab |                         | 250                 |                       |
| 3  | 2007 / 2008      | Laborer      |                         | 250                 |                       |
|  |                  |              |                         |                     |                       |
| 1  | 2008 / 2009      | Specialist   |                         | 250                 |                       |
| 2  | 2008 / 2009      | Welder / Fab |                         | 250                 |                       |
| 3  | 2008 / 2009      | Laborer      |                         | 250                 |                       |
|  |                  |              |                         |                     |                       |
| 1  | 2009 / 2010      | Specialist   |                         | 250                 |                       |
| 2  | 2009 / 2010      | Welder / Fab |                         | 250                 |                       |
| 3  | 2009 / 2010      | Laborer      |                         | 250                 |                       |
|  |                  |              |                         |                     |                       |
|  |                  |              |                         |                     | <b>Lump Sum</b>       |
| 1  | Parts, Materials |              |                         |                     |                       |
|  |                  |              |                         |                     |                       |
| (1) THE ABOVE QUANTITIES ARE ESTIMATES ONLY AND ARE GIVEN AS A BASIS FOR COMPARISON OF BIDS. NO GUARANTEE IS MADE OR IMPLIED AS TO THE EXACT QUANTITY THAT WILL BE NEEDED.<br><br>(2) IN CASE OF DISCREPANCY BETWEEN THE UNIT PRICE AND THE TOTAL SET FORTH FOR A UNIT BASIS ITEM, THE UNIT PRICE SHALL PREVAIL. |                  |              |                         | TOTAL THIS SHEET    |                       |
|  |                  |              |                         | TOTAL THIS PROPOSAL |                       |

ATTACHMENT 5  
Sample Standard Agreement

|                     |
|---------------------|
| AGREEMENT NUMBER    |
| 10A0846             |
| REGISTRATION NUMBER |

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

**California Department of Transportation**

CONTRACTOR'S NAME

TBD

2. The term of this Agreement is: July 1, 2007 through June 30, 2010

3. The maximum amount of this Agreement is: TBD

**Note to Bidders:**

The following 35 pages represent a sample of the Agreement that will be awarded, if any, from this IFB. Please review it carefully and present any questions in writing to the contact identified for this IFB.

4. The parties agree to comply with the terms and conditions of the following exhibits/attachments which are by this reference made a part of the Agreement.

|   |          |
|---|----------|
| <b>Exhibit A</b> – Scope of Work  | 18 Pages |
| <b>Exhibit B</b> – Budget Detail and Payment Provisions                     | 8 Pages  |
| <b>Exhibit C*</b> – General Terms and Conditions (Electronic File: GTC 306) |          |
| <b>Exhibit D</b> - Special Terms and Conditions                             | 4 Pages  |
| <b>Exhibit E</b> – Additional Provisions                                    | 2 Pages  |
| <b>Attachment 1</b> - Bid Proposal  | Pages    |
| <b>Attachment</b> _____   | Pages    |
| <b>Attachment</b> _____   | Pages    |

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this Agreement as if attached hereto. *These documents can be viewed at* <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

**CONTRACTOR**

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

TBD

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

**STATE OF CALIFORNIA**

AGENCY NAME

**California Department of Transportation (Department)**

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

**Diane Hultman, Contract Officer**

ADDRESS

1727 30<sup>th</sup> Street 4<sup>th</sup> Floor  
Sacramento, CA 95816

**California Department of  
General Services Use Only**

☐ Exempt per:

**EXHIBIT A**  
**Standard Agreement**

**SCOPE OF WORK**

1. Contractor agrees to provide all labor, equipment, tools, materials, incidentals on an on-call basis for the maintenance, repair, inspection, set-up, break-down, and relocation of the GAZEX Avalanche control systems on Red Lake/Carson Pass and Carson Spur for a period of three (3) years to the California Department of Transportation (Department).
2. This Agreement shall begin on **July 1, 2007**, contingent upon approval by the State, and expire on **June 30, 2010**, unless extended by amendment.
3. All inquiries during the term of this Agreement will be directed to the project representatives listed below:

|   |   |
|---|---|
| California Department of Transportation | Contractor: TBD <b>Error! Reference source not found.</b> |
| Section/Unit: Division of Maintenance   | Section/Unit:   |
| Contract Manager: John Holcomb          | Project Manager:  |
| Address: 1604 South B Street            | Address:  |
| Stockton, CA 95206-2048                 |   |
| Bus. Phone No.: (209) 942-6020          | Bus. Phone No.:   |
| Fax No: (209) 942-6139                  | Fax No:   |

4. Detailed description of work to be performed and duties of all parties:
  - A. The Contractor shall be knowledgeable of GAZEX maintenance and operations including but not limited to the following:
    1. Ability to access steep mountainous terrain is knowledgeable of avalanche and avalanche zones, and is prepared to work at high altitudes, and snow covered terrain during fair or adverse weather conditions.
    2. Knowledge of programming and servicing the remote control for the electronic firing module.
    3. Knowledge in testing and trouble shooting the PIEZO – Electric Igniter systems and components during extreme weather conditions.
  - B. The Contractor shall be required to provide component parts exclusive to GAZEX technology.
  - C. The Contractor shall provide general maintenance, repairs, set up and break down and relocation of GAZEX Exploders, including but not limited to the following:

**EXHIBIT A**  
**Standard Agreement**

1. Repair damaged shelters inside and/or outside because of, but not limited to weather, rodents and vandals.
  2. Repair and/or replace faulty or worn out plumbing and wiring inside and/or outside of shelters.
  3. Repair, replace or weld broken or faulty supply lines from the shelters to the exploders. Repair and/or replace broken, damaged, or faulty wiring and plumbing on the exploders including any welding that may be necessary.
  4. Repair exploders that have pulled away from their bases.
  5. Repair and/or replace bent or broken support legs on exploders caused by, but not limited to, snow creep, exploder malfunction or any other problems.
  6. Repair and/or adjust, if necessary, all bolts on the mounts, clamps, and cables on support legs on exploders.
  7. Repair, replace or relocate concrete foundations of the exploders that are cracked, or broken or need of relocation.
  8. Replace existing exploder with new exploder
- D. Work crews shall contain a minimum of two (2) workers. Work crews (and replacement parts) will be transported to the designated site by the most cost-effective way, which may include travel by helicopter, track or wheel operated machine or by foot. Contractor to supply means of transportation (ATV, Crawler, etc.) to transport tools, equipment, contractor personnel, etc. to the work site at no additional charge to the state. The Contract Manager can approve One hour of labor per day, per worker for travel/hiking. When equipment is used for transportation, the contractor will provide training for safe use. A helicopter, when needed, will be provided by the Department.
- E. All work will be performed on site unless approved by the Contract Manager in writing.
- F. Routine maintenance hours will be conducted between the hours of 7:00 a.m. and 5:30 p.m. A 40 hour maximum workweek will be recognized, workers can work a 5 day-8hour, or a 4 day-10hour work shifts. The Contract Manager, in writing, must approve any work outside the routine maintenance hours, including weekend work. Overtime must be authorized by the Contract Manager, and when approved will be paid in time and a half, based on the appropriate labor rate listed on the **Bid Proposal (Attachment 1)**.
- G. Tools and consumables are calculated within the hourly rate.
- H. Contractor must be available for contact by phone 24 hours a day, 7 days a week and shall provide the Contract Manager with up to date contact phone numbers at all times. Contractor shall be reachable directly or have a working answering

**EXHIBIT A**  
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machine, voice mail, or answering service to take messages. Contractor shall respond to any and all phone calls, messages, and requests within 12 hours from first contact.

- I. Winter call outs (emergency repairs) require a 24-hour maximum response time to the site for electrical related problems and a 24-hour maximum response time for plumbing and mechanical related problems.
- J. Contractor shall store replacement parts for availability to eliminate down time. These parts include, but are not limited to controllers, spark plugs, battery packs and battery replacements for the shelters.
- K. All maintenance and repair work will be completed each calendar year prior to October 15<sup>th</sup> test firing date.

**5. Safety Provisions**

**A. Fire Safety**

- 1. The Contractor will prepare a fire plan to be approved by the Contract Manager, detailing the plan for prevention, reporting control and extinguishing of fires within the project area. This plan is to be coordinated with the California Division of Forestry and the U.S. Forest Service (Amador and Carson Ranger Districts). All fires (whatever the cause) shall be reported to 911.
- 2. The Contractor shall prohibit any and all smoking at the construction site. The Contractor shall furnish sufficient fire tools of a kind and type satisfactory for fire suppression, and have them available at the work site when requested by the Contract Manager or designee. Fire tools shall be used only for suppressing wild fires. Each gasoline or diesel internal combustion engine, except power tools, shall be equipped with a spark-arresting device, which has been approved by the U.S. Forest Service. Each gasoline power saw shall have a spark-arrestor muffler affixed and in good working condition. Said spark-arrestor muffler shall be constructed and maintained to the standard approved by the U.S. Forest Service. In addition, one chemical pressurized fire extinguisher of not less than 8 oz. Capacity by weight and one size 0 or larger round pointed shovel shall be provided.
- 3. The Contractor will check with the California Division of Forestry and the U.S. Forest Service for the current activity level conditions prior to any welding or cutting torch operation. There will be no welding operations during activity level 4 or 5 conditions (except upon separate written permit issued by an U.S.

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Forest Officer). In the event of equipment breakdown, all welding will conform to the fire safety plan. A permit will be required and the appropriate U.S. Forest Officer notified.

**B. Hazardous Spills**

In the event of a hazardous spill, absorbent will be placed on the spill. The material will be removed from the construction area and disposed of properly. If a spill occurs, the following information will be reported to the U.S. Forest Service:

**ACTION PLAN**

1. Type and estimate of quantity of material discharged.
2. Location by stream course, section, township, and range.
3. Status of control activities, if any, and potential for spread.
4. Indicate the on-the-scene response and any additional resources needed.

**C. Traffic Control**

The Department will provide all traffic control needed for this project. The Contractor is to provide 24-hour advance notice to allow for placement of signs and lane closure near staging area. The helicopter staging area will be at the discretion of the Contract Manager or designee. The Contractor shall be aware of operational stipulations and stay within pre-designated areas of helicopter operations.

**6. Special Provisions**

**A. PERMITS**

**1. National Forest Regulations**

This project is located within the boundaries of the Humbolt-Toiyabe and the El Dorado National Forests. A permit has been issued covering work to be performed under this contract. The Contractor will be familiar with and confirm to, the rules and regulations of the US Forest Service and will be held responsible for the enforcement of such portions as are applicable to the work to be performed under this contract.

Full compensation for conforming to the provisions in this section shall be considered as included in the contract price bid and no additional compensation will be allowed.



**EXHIBIT A**  
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**2. Relations with California Regional Water Quality Control Board**

The location of the proposed work is within areas controlled by the Regional Water Quality Control Board (RWQCB), Central Valley and Lahontan Regions. All permits issued by the RWQCB for the Carson Spur and Red Lake/Carson Pass avalanche control exploder maintenance, repair, and replacement project in Amador and Alpine Counties are available for inspection at the Office of the District 10 Director of Transportation. The Contractor shall fully inform himself of all rules; regulations and conditions that may govern the operations in said area and shall conduct all work accordingly.

Full compensation for conforming to the requirements of this section shall be considered as included in the contract price bid and no additional compensation will be allowed.

**B. GENERAL**

**1. General**

The State of California Department of Transportation Standard Plans and Specifications are hereby incorporated into this contract and made a part thereof. All work accomplished shall be done in accordance with, these special provisions and the proposed form of contract. Any reference to "plans" or "Standard Plans" shall be interpreted as referring to these Standard Plans dated July 2002. Any reference to "specifications" or "Standard Specifications" shall be interpreted as referring to these Standard Specifications dated July 2002.

Any reference to 'the Engineer' in the Standard Specifications will be replaced with 'the Contract Manager' for the purposes of this contract.

No move-in/move-out will be paid on equipment. No per diem will be paid. No additional payment will be made for travel time to and from the job site.

No additional compensation will be allowed for specialized equipment.

Work completed daily must be reported daily in writing to the Contract Manager and must include: task order number, location by county, route and postmile, tons of digouts replaced of work performed, and a description of

**EXHIBIT A**  
**Standard Agreement**

work performed; including, number of people, hours worked, and hours for equipment usage.

All permits required by local ordinances are to be secured and paid for by the Contractor.

Working days shall be defined for each task order issued as the period of performance stated on each task order. If necessary, a task order may be extended by the Contract Manager.

**2. Authority of Contract Manager**

The Contract Manager shall decide all questions, which may arise as to the quality or acceptability of materials furnished and work performed. As to the manner of performance and rate of progress of the work all questions which may arise as to the interpretation of the plans and special provisions; all questions as to the acceptable fulfillment of the contract on the part of the Contractor; and all questions as to compensation. The Contract Manager's decision shall be final and he shall have authority to enforce and make effective such decisions and orders which the Contractor fails to carry out promptly.

References to the Contract Manager in these special provisions shall refer to the Contract Manager, the designated Contract Administrator, or their designated representatives. A list of these individuals will be provided to the Contractor upon approval of the contract.

If at any time the Contract Manager or his representatives determine the Contractor's operation to be a problem for environmental or safety reasons, they may shut down the Contractor's operation until the problem is remedied. Additional working days will not be accessed for this reason.

Before starting work, the Contractor shall designate, in writing, an authorized representative who shall have the authority to represent and act in Contractor's behalf. Said authorized representative should be present at the work site at all times while work is actually in progress.

**3. Air Pollution Control**

The Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the contract, including any air pollution control rules, regulations, ordinances and statutes, specified in Section 11017 of the Government Code.

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Unless otherwise provided in the special provisions, material to be disposed of shall not be burned, either inside or outside the highway right of way.

**4. Water Pollution**

The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, bays, and coastal waters from pollution with fuels, oils, bitumens, calcium chloride and other harmful materials and shall conduct and schedule his operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, bays and coastal waters. Care shall be exercised to preserve roadside vegetation beyond the limits of the work.

Water pollution control work is intended to provide prevention, control, and abatement of water pollution to streams, waterways, and other bodies of water, and shall consist of constructing those facilities which may be specified herein or directed by the Contract Manager.

The Contractor shall coordinate water pollution control work with all other work done on the contract.

If necessary, the Contractor shall submit, for acceptance by the Contract Manager, a program to control water pollution effectively during work. Details and requirements pertaining to water pollution control and what an acceptable program entails shall be found in Section 7-1.01G of the Standard Specifications.

Nothing in the terms of the contract or in these special provisions shall relieve the Contractor of the responsibility for compliance with Sections 5650 and 12015 of the Fish and Game Code, or other applicable statutes relating to prevention or abatement of water pollution.

**5. Safety and Health Provisions**

The Contractor shall conform to all applicable occupational safety and health standards, rules, regulations and orders established by the State of California.

All working areas utilized by the Contractor to perform work during the hours of darkness, shall be lighted to conform to the minimum illumination intensities established by California Division of Occupational Safety and Health Construction Safety Orders.

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The Contractor shall provide all safety equipment, materials and training as required.

All lighting fixtures shall be mounted and directed in a manner-precluding glare to approaching traffic.

**6. Public Convenience**

This section defines the Contractor's responsibility with regard to convenience of the public and public traffic in connection with his operations.

Attention is directed to the section "Public Safety" for provisions relating to the Contractor's responsibility for the safety of the public. The requirements in "Public Safety" are in addition to the requirements of this section "Public Convenience" and the Contractor will not be relieved of his responsibilities as set forth in said "Public Safety" by reason of his conformance with any of the provisions in "Public Convenience".

The Contractor shall so conduct his operations as to offer the least possible obstruction and inconvenience to the public and he shall have under work no greater length or amount of work than he can prosecute properly with due regard to the rights of the public.

All public traffic shall be permitted to pass through the work with as little inconvenience and delay as possible.

Existing traffic signals and highway lighting shall be kept in operation for the benefit of the traveling public during progress of the work, and other forces will continue routine maintenance of existing systems.

Work shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners.

Convenient access to driveways, houses, and buildings along the line of the work shall be maintained and temporary approaches to crossings or intersecting highways shall be provided and kept in good condition.

The Contractor may be required to cover certain signs which regulate or direct public traffic to roadways that are not open to traffic. The Contract Manager will determine which signs shall be covered.

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**7. Public Safety**

It is the Contractor's responsibility to provide for the safety of traffic and the public when working under this contract.

Attention is directed to "Responsibility for Damage" and "Public Convenience," for provisions relating to the Contractor's responsibility for providing for the convenience of the public in connection with his operations.

Signs, lights, flags, and other warning and safety devices and their use shall conform to the requirements set forth in the current Manual of Traffic Controls, hereby incorporated by reference. Signs or other protective devices furnished and erected by the Contractor at his expense, as above provided, shall not obscure the visibility of, nor conflict in intent, meaning and function of either existing signs, lights and traffic control devices or any construction area signs and traffic control devices. Signs furnished and erected by the Contractor at his expense shall be approved by the Contract Manager as to size, wording and location.

The installation of general roadway illumination shall not relieve the Contractor of his responsibility for furnishing and maintaining any of the protective facilities herein before specified.

Equipment shall enter and leave the highway via existing ramps and crossovers and shall move in the direction of public traffic. All movements of workmen and equipment on or across lanes or ramps open to public traffic shall be performed in a manner that will not endanger public traffic.

The Contractor's trucks or other mobile equipment which leave a freeway lane, that is open to public traffic, to enter the work area, shall slow down gradually in advance of the location of the turnoff to give following public traffic an opportunity to slow down.

When leaving a work area and entering a roadway carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic.

No material or equipment shall be stored where it will interfere with the free and safe passage of public traffic, and at the end of each day's work and at other times when construction operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by public traffic.

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Any tools, equipment, supplies or facilities which the Contractor uses to perform the work shall be removed from state right of way at the end of each day except as approved by the Contract Manager. No tool, equipment, supplies or facilities shall installed or placed where they will interfere with the free and safe passage of public traffic.

Should the Contractor appear to be neglectful or negligent in furnishing warning devices and taking protective measures as above provided, the Contract Manager may direct attention to the existence of a hazard and the necessary warning devices shall be immediately furnished and installed and protective measures taken by the Contractor at his expense. Should the Contract Manager point out the inadequacy of warning devices and protective measures, such action on the part of the Contract Manager shall not relieve the Contractor from responsibility for public safety or abrogate his obligation to furnish and pay for these devices and measures.

**8. Preservation of Property**

Attention is directed to the section called "Responsibility for Damage." Due care shall be exercised to avoid injury to existing highway improvements or facilities, utility facilities, adjacent property, and roadside trees, shrubs, and other plants that are not to be removed.

Roadside trees, shrubs, and other plants that are not to be removed, and pole lines, fences, signs, markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and water lines, all highway facilities, and any other improvements or facilities within or adjacent to the highway shall be protected from injury or damage. If such objects are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored, in kind, at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by these special provisions, if any such objects are a part of the work being performed under the contract. The Contract Manager may make or cause to be made such temporary repairs as are necessary to restore to service any damaged highway facility. The cost of such repairs shall be borne by the Contractor and may be deducted from any moneys due or to become due him under the contract.

It shall be the Contractor's responsibility, pursuant thereto, to ascertain the location of overhead and underground improvements or facilities which may be subject to damage by reason of his operations.

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9. Cooperation

Should construction or other maintenance work be under way by other forces or by other Contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other Contractors or other forces to the end that any delay or hindrance to their work will be avoided. When 2 or more Contractors are employed on related or adjacent work, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other.

Each Contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by his operations, and for loss caused the other due to his unnecessary delays or failure to finish the work within the time specified for completion.

10. Character of Workpersons

If any subcontractor or person employed by the Contractor shall appear to the Contract Manager to be incompetent or to act in a disorderly or improper manner, he shall be discharged immediately on the request of the Contract Manager, and such person shall not again be employed on the work.

11. Alternative Equipment

While certain specifications may provide that equipment of a particular size and type is to be used to perform portions of the work, it is to be understood that the development and use of new or improved equipment is to be encouraged.

The Contractor may request, in writing, permission from the Contract Manager to use equipment of a different size or type in place of the equipment specified. The Contract Manager, before considering or granting such request, may require the Contractor to furnish, at his expense, evidence satisfactory to the Contract Manager that the equipment proposed for use by the Contractor is capable of producing work equal to, or better than, that which can be produced by the equipment specified. If such permission is granted by the Contract Manager, it shall be understood that such permission is granted for the purpose of testing the quality of work actually produced by such equipment and is subject to continuous attainment of results which, in the opinion of the Contract Manager, are equal to, or better than, that which can be obtained with the equipment specified. The Contract Manager shall have the right to withdraw such permission at any time that he determines

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that the alternative equipment is not producing work that is equal, in all respects, to that which can be produced by the equipment specified. Upon withdrawal of such permission by the Contract Manager, the Contractor will be required to use the equipment originally specified and shall, in accordance with the directions of the Contract Manager, remove and dispose of or otherwise remedy, at his expense, any defective or unsatisfactory work produced with the alternative equipment.

Neither the State nor the Contractor shall have any claim against the other for either the withholding or the granting of permission to use alternative equipment, or for the withdrawal of such permission.

Permission to use alternative equipment in place of equipment specified will only be granted where such equipment is new or improved and its use is deemed by the Contract Manager to be in furtherance of the purposes of this special provision. The approval for use of particular equipment on any project shall in no way be considered as an approval of the use of such equipment on any other project.

Nothing in this Section shall relieve the Contractor of his responsibility for furnishing materials or producing finished work of the quality specified in this special provision.

**12. Alternative Methods**

When more than one specified method of construction or specified type of material or construction equipment may be used to perform portions of the work and the selection of the method of construction or the type of material or equipment to be used will be decided by the Contractor, it is understood that the State shall not guarantee that every such method of construction or type of material or equipment can be used successfully throughout all or any part of any project. It shall be the Contractor's responsibility to select and use the alternative or alternatives which will satisfactorily perform the work under the conditions encountered. In the event some of the alternatives are not feasible or it is necessary to use more than one of the alternatives on any project.

**13. Source of Supply and Quality of Materials**

The Contractor shall furnish all materials required to complete the work, except those materials designated to be furnished by the State. Only materials conforming to the requirements of the Standard Specifications or these special provisions shall be incorporated in the work.



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The materials furnished and used shall be new. The materials shall be manufactured, handled, and used in a workmanlike manner to insure completed work in accordance with these special provisions

Materials to be used in the work will be subject to inspection and tests by the Contract Manager or his designated representative. The Contractor shall furnish without charge such samples as may be required.

The Contractor shall furnish the Contract Manager a list of his sources of materials and the locations at which such materials will be available for inspection. The list shall be submitted on a State-furnished form and shall be furnished to the Contract Manager in sufficient time to permit inspecting and testing of materials to be furnished from such listed sources in advance of their use. The Contract Manager may inspect, sample or test materials at the source of supply or other locations, but such inspection, sampling or testing will not be undertaken until the Contract Manager is assured by the Contractor of the cooperation and assistance of both the Contractor and the supplier of the material. The Contractor shall assure that the Contract Manager or his authorized representative has free access at all times to the material to be inspected, sampled or tested. It is understood that such inspections and tests if made at any point other than the point of incorporation in the work in no way shall be considered as a guaranty of acceptance of such material nor of continued acceptance of material presumed to be similar to that upon which inspections and tests have been made, and that inspection and testing performed by the State shall not relieve the Contractor or his suppliers of responsibility for quality control.

Manufacturers' warranties, guaranties, instruction sheets and parts lists, which are furnished with certain articles or materials incorporated in the work, shall be delivered to the Contract Manager before acceptance of the contract.

Reports and records of inspections made and tests performed, when available at the site of the work, may be examined by the Contractor.

**14. Defective Materials**

All materials, supplied by the Contractor, which the Contract Manager has determined do not conform to the requirements of these special provisions will be rejected whether in place or not. They shall be removed immediately from the site of the work, unless otherwise permitted by the Contract Manager. No rejected material, the defects of which have been subsequently corrected, shall be used in the work, unless approval in writing has been given by the Contract Manager. Upon failure of the Contractor to comply

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promptly with any order of the Contract Manager made under these provisions, the Contract Manager shall have authority to cause the removal and replacement of rejected material and to deduct the cost thereof from any moneys due or to become due the Contractor.

**15. Certificates of Compliance**

A Certificate of Compliance shall be furnished prior to the use of any materials for which the Standard specifications or these special provisions require that such a certificate be furnished. In addition, when so authorized in these special provisions, the Contract Manager may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The certificate shall be signed by the manufacturer of the material or the manufacturer of assembled materials and shall state that the materials involved comply in all respects with the requirements of these special provisions. A Certificate of Compliance shall be furnished with each lot of material delivered to the work and the lot so certified shall be clearly identified in the certificate.

All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the work which conforms to the requirements of these special provisions and any such material not conforming to such requirements will be subject to rejection whether in place or not.

The Department reserves the right to refuse to permit the use of material on the basis of a Certificate of Compliance.

The form of the Certificate of Compliance and its disposition shall be as directed by the Contract Manager.

**16. Contractor's Responsibility for the Work and Materials**

Until the acceptance of the contract, the Contractor shall have the charge and care of the work and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work, except as provided in the sections titled "Public Convenience". The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work occasioned by any cause before its completion and acceptance and shall bear the expense thereof, except as otherwise expressly provided in Section 7-1.165 of the Standard Specifications and except for such injuries,

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losses, or damages as are directly and approximately caused by acts of the Federal Government or the public enemy. Where necessary to protect the work from damage, the Contractor shall, at his expense, provide suitable drainage of the roadway and erect such temporary structures as are necessary to protect the work from damage. The suspension of the work from any cause whatever shall not relieve the Contractor of his responsibility for the work as herein specified.

**17. Removal of Rejected and Unauthorized Work**

All work which has been rejected shall be remedied by the Contractor and no additional compensation will be allowed him for such remedial work.

Any work done beyond that established by the Contract Manager will be considered as unauthorized work and will not be paid for. Upon order of the Contract Manager unauthorized work shall be remedied, removed, or replaced at the Contractor's expense. Upon failure of the Contractor to comply promptly with any order to remove rejected or unauthorized work, the Department may cause such work to be remedied, removed, or replaced, and deduct the costs from any moneys due or to become due the Contractor.

**18. Disposal of Material Outside the Highway Right of Way**

The Contractor shall make his own arrangements for disposing of materials outside the highway right of way and he shall pay all costs involved. Details on requirements, procedures, authorization and documentation shall be as indicated in Section 7-1.14 of the Standard Specifications.

Full compensation for all costs involved in disposing of materials as specified in this section, including all costs of hauling, shall be considered as included in the contract unit price to be paid and no additional compensation will be allowed therefor.

**19. Damaged Facilities**

The Contractor shall be responsible for replacing state facilities or private property lost or damaged due to Contractor personnel actions. The Contractor shall be liable to the Department or property owner for the cost of replacing these facilities, in kind. If replacement is not made, costs may be deducted from any moneys due or to become due the Contractor.

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**20. Responsibility for Damage**

Responsibility for damage will be as stated in Section 7-1.12 of the Standard Specifications, with all references to 'the Engineer' replaced with 'the Contract Manager'. For damage caused by natural disasters see Section 7-1.165 of the Standard Specifications.

**21. Rights In Land and Improvements**

Nothing in these specifications shall be construed as allowing the Contractor to make any arrangements with any person to permit occupancy or use of any land, structure, or building within the limits of the contract for any purpose whatsoever, either with or without compensation, in conflict with any agreement between the State and any owner, former owner, or tenant of such land, structure, or building.

The Contractor shall not occupy State-owned property outside the right of way in which the work is situated, unless he enters into a rental agreement with the Department. The agreement will be based on the fair rental values.

**22. Personal Liability**

Neither the Director, the Contract Manager, nor any other officer or authorized employee of the State of California, nor any officer or employee of any county, city or district shall be personally responsible for any liability arising under or by virtue of the contract.

**23. Legal Actions Against the Department**

In the event litigation is brought against the Department concerning compliance by the Department with State or Federal laws, rules or regulations applicable to highway work, the provisions of this section shall apply.

- a) If, pursuant to court order (other than an order to show cause) the Department is prohibited from requiring the Contractor to perform all or any portion of the work, the Department may, if it so elects, eliminate the enjoined work or terminate the contract.
- b) If the final judgment in the action prohibits the Department from requiring the Contractor to perform all or any portion of the work, the Department will either eliminate the enjoined work or terminate the contract.

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- c) If the contract is to be terminated, the termination and the determination of the total compensation payable to the Contractor shall be governed by the provisions of the section titled "Termination of Contract" of these special provisions.

**24. Temporary Suspension of Work**

The Contract Manager shall have the authority to suspend the work wholly or in part, for such period as he may deem necessary, due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as he may deem necessary due to the failure on the part of the Contractor to carry out orders given, or to perform any provision of the contract. The Contractor shall immediately comply with the written order of the Contract Manager to suspend the work wholly or in part. The suspended work shall be resumed when conditions are favorable and methods are corrected, as ordered or approved in writing by the Contract Manager.

In the event that a suspension of work is ordered as provided above, and should such suspension be ordered by reason of the failure of the Contractor to carry out orders or to perform any provision of the contract; or by reason of weather conditions being unsuitable for performing any item or items of work, which work, in the sole opinion of the Contract Manager, could have been performed prior to the occurrence of such unsuitable weather conditions had the Contractor diligently prosecuted the work when weather conditions were suitable; the Contractor, at his expense, shall do all the work necessary to provide a safe, smooth, and unobstructed passageway through the work area for use by public traffic during the period of such suspension as provided in "Public Convenience," and "Public Safety," and as specified in these special provisions for the work. In the event that the Contractor fails to perform the work above specified, the Department will perform such work and the cost thereof will be deducted from moneys due or to become due the Contractor.

**25. Final Cleaning Up**

Before final inspection of work site, the Contractor shall clean the highway, material sites, and all ground occupied by him in connection with the work of all rubbish, excess materials, temporary structures and equipment. All parts of the work shall be left in a neat and presentable condition. Full compensation for final cleaning up will be considered as included in the contract unit rate and no separate payment will be made therefor.

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Nothing herein, however, shall require the Contractor to remove warning, regulatory, and guide signs prior to formal acceptance by the Contract Manager.

**26. Acceptance of Work**

When the Contract Manager has made final inspection as provided and determines that the contract work has been completed, he will accept the work completed, and immediately upon and after such acceptance by the Contract Manager, the Contractor will be relieved of the duty of maintaining and protecting the work as a whole and he will not be required to perform any further work thereon. The Contractor shall be relieved of his responsibility for injury to persons or property or damage at that assigned project site after the acceptance by the Contract Manager.

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**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the itemized invoice(s), the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto, **Attachment 1**, and made a part of this Agreement.
- B. The Contractor shall submit a certified copy of all payroll records for verification by the Department's Contract Manager and/or Designee with each invoice . When progress payments are called for, the Contractor shall submit a certified copy of all payroll records for verification for the work completed to date with each invoice. Delinquent or inadequate certified payrolls or other required documents will result in the withholding of payment until such documents are submitted by the Contractor.
- C. Itemized invoices shall include this Agreement Number and shall be signed and submitted in triplicate not more frequently than monthly in arrears to:  

California Department of Transportation  
District 10/Division of Maintenance  
Attention: John Holcomb  
1604 South B Street  
Stockton, CA 95206-2048
- D. The State will honor cash discounts and will make payment to the Contractor in accordance with the cash discount terms specified on the invoice, provided requirements of the Agreement have been met. Discount must be a minimum of one half of 1% of the amount due, but not less than \$25.00.

**2. Budget Contingency Clause**

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

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- C. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- D. The State has the option to void the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

**3. Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

**4. Cost Limitation**

- A. Total amount of this Agreement shall not exceed **\$0.00**.
- B. It is understood and agreed that this total is an estimate and that the State will pay only for those services actually rendered as authorized by the contract manager or his/her designee.

**5. Rates**

The Contractor shall perform all work under this Agreement and shall be paid at an hourly rate per worker (minimum two workers per work crew as outlined in the Scope of Work, Section 4, Item D) as indicated on the Bid Proposal (**Attachment 1**).

**6. Materials/Supplies**

The Contractor will be reimbursed for the actual cost of materials/supplies purchased to be consumed or installed at the work site in performance of the Agreement (including applicable sales tax), without additional allowance for markup. Contractor costs associated with the purchase and installation of materials/supplies are considered as a component of the Contractor's hourly rate for services that include wages, overhead, general and administrative expenses and profit. Cost of materials/supplies are to be substantiated by a copy of the appropriately signed invoice verifying the actual cost and delivery of the replaced components to the Department.

**7. Excise Tax**

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.



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**8. Inclusive Costs**

- A. The cost of employer payments to or on behalf of employees, subsistence, travel, compensation insurance premiums, unemployment contributions, social security taxes, Agreement bond premiums, and any other taxes or assessments INCLUDING SALES AND USE TAXES required by law or otherwise shall be included in the Agreement rates and no additional allowance will be made thereof, unless separate payment provision should specifically so provide.
- B. Contractors shall make travel and subsistence payments to each worker in compliance with Labor Code sections 1773.1 and 1773.9. Travel and subsistence requirements are available on the Department of Industrial Relations website at <http://www.dir.ca.gov/DLSR/PWD/>.

**9. Payroll Records**

- A. The Contractor and each Subcontractor shall comply with the following provisions. The Contractor shall be responsible for compliance by his/her subcontractors.
  - 1.) Each Contractor and Subcontractor shall keep accurate payroll records and supporting documents as mandated by Section 1776 of the California Labor Code and as defined in Section 16000 of Title 8 of the California Code of Regulations, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor or Subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
    - a.) The information contained in the payroll record is true and correct.
    - b.) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
  - 2.) The payroll records, enumerated under paragraph (1) above, shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:
    - a.) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
    - b.) A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of the Department, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department

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of Industrial Relations. Certified payrolls submitted to the Department, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the Contractor.

- c.) The public shall not be given access to certified payroll records by the Contractor. The Contractor is required to forward any requests for certified payrolls to the Contract Manager by both facsimile and regular mail on the business day following receipt of the request.
- 3.) Each Contractor shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) days after receipt of a written request.
- 4.) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Department shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address and social security number. The name and address of the Contractor awarded the Agreement or performing the Agreement shall not be marked or obliterated.
- 5.) The Contractor shall inform the Department of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- 6.) The Contractor or Subcontractor shall have ten (10) days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the Contractor or Subcontractor fails to comply within the ten-day period, he or she shall, as a penalty to the Department, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by the Department from payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
- B. The penalties specified in paragraph 6 above for noncompliance with the provisions of said Section 1776 will be deducted from any monies due or which may become due to the Contractor. Penalties assessed for failure to submit certified payrolls are forfeitures and not retentions that will be returned to the Contractor.
- C. Payrolls shall contain the full name, address and social security number of each employee, the correct work classification (including apprentices, if applicable), rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or employer's agent indicating that the payrolls are correct and complete and that the wage rates

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contained therein are not less than those required by the Agreement. The "Statement of Compliance" shall be on forms furnished by the Department or on any form with identical wording. Any payroll that does not include the required "Statement of Compliance" will be deemed inadequate and unacceptable. The Contractor shall be responsible for the submission of copies of payrolls of all subcontractors.

- D. The Contractor and each Subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Agreement.
- E. The Contractor shall submit a certified copy of all payroll records for verification by the Department's Contract Manager and/or Designee with each invoice. When progress payments are called for, the Contractor shall submit a certified copy of all payroll records for verification for the work completed to date with each invoice. Delinquent or inadequate certified payrolls or other required documents will result in the withholding of payment until such documents are submitted by the Contractor.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

**10. Penalty**

- A. The Contractor and any Subcontractor under the Contractor shall comply with Labor Code Sections 1774 and 1775. In accordance with said Section 1775, the Contractor shall forfeit, as a penalty to the Department, not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for any public work done under the contract by him or her, or by any subcontractor under him/her, in violation of the provisions of the Labor Code and, in particular, Labor Code Sections 1775 to 1780, inclusively.
- B. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or Subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or Subcontractor in meeting his or her prevailing wage obligations, or a Contractor's willful failure to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or Subcontractor had knowledge of the obligations under the Labor Code. Any contractor that executes and receives a copy of this Agreement is deemed to have knowledge of his or her obligations regarding the Labor Code's prevailing wage requirements. In addition to the penalty and pursuant to Labor Code Section 1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor or Subcontractor.

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- C. If a worker employed by a Subcontractor on a public works project is not paid the general prevailing per diem wages by the Subcontractor, the prime Contractor of the project is not liable for any penalties described above unless the prime Contractor had knowledge of that failure of the Subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime Contractor fails to comply with all of the following requirements:
- 1.) The Agreement executed between the Contractor and the Subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1775.5, 1776, 1813 and 1815 of the Labor Code.
  - 2.) The Contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the Subcontractor to the employees by periodic review of the certified payroll records of the subcontractor.
  - 3.) Upon becoming aware of the failure of the Subcontractor to pay his or her workers the specific prevailing rate of wage, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited, to retaining sufficient funds due the Subcontractor for work performed on the public works project.
  - 4.) Prior to making final payment to the Subcontractor for work performed on the public works project, the Contractor shall obtain an affidavit signed under penalty of perjury for the Subcontractor that the Subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
- D. Pursuant to Section 1775 of the Labor Code, the Department shall notify the Contractor on a public works project within 15 days of receipt of a complaint that a Subcontractor has failed to pay workers the general prevailing rate of per diem wages.
- E. If the Department determines that employees of a Subcontractor were not paid the general prevailing rate of per diem wages and if the Department did not retain sufficient money under the contract to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the Contractor shall withhold an amount of moneys due the Subcontractor sufficient to pay those employees the general prevailing rate of per diem wages if requested by the Department.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

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**11. State General Prevailing Wage Rates**

- A. The Contractor agrees to comply with all of the applicable provisions of the Labor Code including, those provisions requiring the payment of not less than the general prevailing rate of wages. The Contractor further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.
- B. Pursuant to Section 1771.5 of the Labor Code, not less than the general prevailing wage rate of per diem wages and the general prevailing rate of per diem wages for holiday and overtime work for work of a similar character in the county in which the work is to be performed shall be paid to all workers employed on this Agreement, if this Agreement is for:
  - 1.) More than \$25,000 for public works construction or,
  - 2.) More than \$15,000 for the alteration, demolition, installation, repair, or maintenance of public works.
- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

**12. State Prevailing Wage Rate Determinations**

- A. The General Prevailing Wage Rate Determinations applicable to the project are available and on file with the Department's Regional/District Labor Compliance Office. These wage rate determinations are made a specific part of this contract by reference pursuant to Labor Code Section 1773.2. Any special wage rate determinations applicable to this project are attached.
- B. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at:  
<http://www.dir.ca.gov/>
- C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations are to be obtained by the Contractor from the Department's District/Regional Labor Compliance Officer. These wage rate determinations are to be posted by the Contractor at the job site in accordance with Section 1773.2 of the California Labor Code.
- D. Questions pertaining to predetermined wage rates should be directed to the California Department of Transportation, Central Regional Labor Compliance Officer, Charlene Anderson, 855 "M" Street, Suite 200, Fresno, CA 93778-2616.

**13. Hours of Labor**

- A. Eight (8) hours labor constitutes a legal day's work. The Contractor shall forfeit, as a penalty to the State of California, twenty-five dollars (\$25.00) for each worker

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employed in the execution of the Agreement by the Contractor or any Subcontractor under the Contractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the Labor Code, and in particular Sections 1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half times the basic rate of pay, as provided in Section 1815.

- B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

**14. Employment of Apprentices**

- A. Where either the prime contract or the subcontract exceeds \$30,000, the Contractor and any subcontractors under him or her shall comply with all applicable requirements of Labor Code sections 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
- B. Contractors and subcontractors are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, Contractors and subcontractors are advised to contact the State Division of Apprenticeship Standards, P. O. Box 420603, San Francisco, California 94142-0603, or one of its branch offices, for additional information regarding the employment of apprentices and for the specific journey-to-apprentice ratios for the contract work. The prime Contractor is responsible for all subcontractors' compliance with these requirements Penalties are specified in Labor Code Section 1777.7.
- C. Any subcontract entered into as a result of this contract shall contain all of the provisions of this article.

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**SPECIAL TERMS AND CONDITIONS**

**1. Settlement of Disputes**

- A. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Department's Contract Officer, who may consider any written or verbal evidence submitted by the contractor. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on both parties to the Agreement on all questions of fact considered and determined by the Contract Officer.
- B. Neither the pendency of a dispute nor its consideration by the Contract Officer will excuse the contractor from full and timely performance in accordance with the terms of the Agreement.

**2. Agency Liability**

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**3. Subcontractors**

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- B. The contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted.



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**4. Termination**

- A. The Department of Transportation reserves the right to terminate this Agreement without cause upon thirty (30) days written notice to the Contractor or immediately in the event of material breach by the Contractor.
- B. In the event that the total contract amount is expended prior to the expiration date, the State may, at its discretion, terminate this contract with 30 days notice to contractor.

**5. Retention of Records/Audits**

- A. For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, subcontractors and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- B. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this article.

**6. Default**

If, after award and execution of the Agreement, the contractor defaults, the Agreement may be terminated for non-satisfactory performance. Should he/she default on the Agreement, he/she may be liable to the State for damages including the difference between their original bid price and the actual cost of performing their work by another contractor.

**7. Non-Solicitation**

The contractor warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained or contracted by the contractor for the purpose of securing business. For breach or violation of this warranty, the state shall have the right to annul this Agreement without liability, paying only for the value of the work actually

**EXHIBIT D**  
**Standard Agreement**

performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**8. Disabled Veterans Business Enterprise (DVBE) Participation (Without Goals)**

The State has established no goals for the participation of DVBE for this contract. However, the Contractor shall be fully informed respecting the California Public Contract Code Section 10115 et seq., which is incorporated by reference. Contractor is urged to obtain DVBE subcontractor participation should clearly defined portions of the work become available.

**9. Contractor's Priority Hiring Considerations**

The Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Chapter 2 commencing with Section 11200 of the Welfare and Institutions Code, in accordance with Article 3.9 commencing with Section 11349 of the Welfare and Institutions Code.

**10. Audit Review Procedures**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by Agreement shall be reviewed by the Chairperson of the Audit Review Committee (ARC). The ARC will consist of the Deputy Director, Audits & Investigations (Chairperson); Deputy Director of the functional Program area; the Chief Counsel, Legal Division, or their designated alternates; and if the Department chooses, two representatives of the Department's choosing, from private industry. The two representatives from private industry will be advisory in nature only and will not have voting rights. Additional members or their alternates may serve on the ARC.
- B. Not later than thirty (30) days after issuance of the final audit report, the Contractor may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the appropriate Chief Deputy Director. The Chief Deputy Director will make the final decision for the Department. The final decision will be made within three (3) months of receipt of the notification of dispute.
- C. Neither the pendency of a dispute nor its consideration by Department will excuse the contractor from full and timely performance, in accordance with the terms of this Agreement.

**EXHIBIT D**  
**Standard Agreement**

**11. Laws to be Observed**

The contractor shall keep fully informed of all existing and future state and federal laws and county, and municipal ordinances and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Contractor shall at all times observe and comply with, and shall cause all agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the work. The contractor shall protect and indemnify the State of California and all officers and employees thereof connected with the work against any claim, injury, or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the contractor, a subcontractor, or an employee. If any discrepancy or inconsistency is discovered in the plans, drawings, specification, or Agreement for the work in relation to any such law, ordinance, regulation, order, or decree, the contractor shall immediately report the same to the contract manager in writing.

**12. Specific Statutory Reference**

Any reference to certain statutes in this Agreement shall not relieve the Contractor from the responsibility of complying with all other statutes applicable to the service, work, or rental to be furnished thereunder.

**13. Equipment Indemnification**

- A. The contractor shall indemnify the state against all loss and damage to the contractor's property or equipment during its use under this Agreement and shall at the contractor's own expense maintain such fire, theft, liability or other insurance as deemed necessary for this protection. The contractor assumes all responsibility which may be imposed by law for property damage or personal injuries caused by defective equipment furnished under this Agreement or by operations of the contractor or the contractor's employees under this Agreement.
- B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

**EXHIBIT E**  
**Standard Agreement**

**ADDITIONAL PROVISIONS**

**1. Liability Insurance Provisions**

- A. Contractor is responsible for any deductible or self-insured retention contained within the insurance program.
- B. The Insurance policy shall contain a provision that states that coverage will not be cancelled without 30 days prior written notice to the State.
- C. Coverage must be in force for the complete term of this Agreement. If insurance expires during the term of this Agreement, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of this Agreement.
- D. In the event contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of the Agreement.
- E. Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the State.
- F. The State will not be responsible for any premiums or assessments on the policy.

**1. Commercial General Liability**

- a.) Contractor shall maintain general liability with limits of not less than **\$1,000,000** per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.
- b.) The State of California, its officers, agents, employees, and servants shall be included as additional insured, but only with respect to work performed for the State of California under this Agreement. The insurance carrier should provide an endorsement for the additional insured statement.

**2. Workers' Compensation/Employer's Liability**

Contractor shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement, including special coverage extensions where applicable. Employer's liability limits of **\$1,000,000** per incident shall be required.

**EXHIBIT E**  
**Standard Agreement**

**2. License Requirements**

The Contractor shall be properly licensed in accordance with the laws of the State of California and shall possess a Class A General Engineering Contractor license.

**3. Licensed Contractor Standards for Quality of Work**

- A. Licensed contractors must observe professional standards for quality of work or the California Contractors State License Board will invoke disciplinary action.
- B. Notice is hereby given that certain actions by a Contractor, including, but not limited to the following, constitute grounds for disciplinary action once the State has notified the license board of all violations:
  - 1. A willful departure from plans and specifications or disregard of trade standards for good and workmanlike construction in any material respect that might prejudice the Department of Transportation, owner of the property upon which you perform work (Bus. & Prof. Code, 7109).
  - 2. The failure to observe and comply with all of the applicable labor laws (Bus. & Prof. Code 7110).
  - 3. Material failure to complete this Agreement (Bus. & Prof. Code 7113).
- C. Should the State determine that the work or materials provided vary materially from the specifications, or, that defective work when completed was not performed in a workmanlike manner, then the Contractor warrants that he/she shall perform all necessary repairs, replacement and corrections needed to restore the property according to the Agreement plans and specifications, all at no further or additional cost to the State.

**4. Force Majeure**

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

**RECYCLE CONTENT CERTIFICATION**

ADM 2038 (Rev. 03/27/2006) (Page 1 of 2)

**Contract Number: 10A0846****INSTRUCTIONS:**

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

An incomplete form or failure to provide this completed form may result in cancellation of this Contract. Attach additional sheets as necessary. If the Contract does not require any commodities to be provided, indicate N/A under "Product Description." If the product(s) that you are providing do not contain any recycled content, indicate "100" under Virgin Material column. The numbers in the postconsumer, secondary, and virgin material columns must add up to 100 percent. Please see page 2 for additional instructions/footnotes.

|                   |  |       |  |          |                                    |          |               |  |  |  |
|-------------------|--|-------|--|----------|------------------------------------|----------|---------------|--|--|--|
| CONTRACTOR'S NAME |  |       |  |          | BUSINESS PHONE NUMBER<br>(   )   - |          | DATE          |  |  |  |
| BUSINESS ADDRESS  |  |       |  |          | BUSINESS FAX NUMBER<br>(   )   -   |          | EMAIL ADDRESS |  |  |  |
| CITY              |  | STATE |  | ZIP CODE |                                    | WEB SITE |               |  |  |  |

  

| QUANTITY <sup>(1)</sup> | UNIT OF MEASURE <sup>(2)</sup> | UNIT COST <sup>(3)</sup> | PRODUCT DESCRIPTION <sup>(4)</sup> | PRODUCT MANUFACTURER <sup>(5)</sup> | PRODUCT CATEGORY <sup>(6)</sup> | TOTAL DOLLAR AMOUNT <sup>(7)</sup> | POSTCONSUMER MATERIAL CONTENT <sup>(8)</sup><br>(Percent %) | SECONDARY MATERIAL CONTENT <sup>(9)</sup><br>(Percent %) | VIRGIN MATERIAL <sup>(10)</sup><br>(Percent %) | TOTAL MATERIAL CONTENT <sup>(11)</sup><br>(PERCENT %) |
|-------------------------|--------------------------------|--------------------------|------------------------------------|-------------------------------------|---------------------------------|------------------------------------|---|--|--|---|
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |
|                         |                                | \$                       |                                    |                                     |                                 | \$                                 | %   | %  | %  | 100%  |

  

|   |  |  |  |  |       |  |  |  |      |  |
|---|--|--|--|--|-------|--|--|--|------|--|
| PRINTED NAME OF PERSON COMPLETING THIS FORM |  |  |  |  | TITLE |  |  |  |      |  |
| SIGNATURE OF PERSON COMPLETING THIS FORM    |  |  |  |  |       |  |  |  | DATE |  |

**INSTRUCTIONS (Continued) AND FOOTNOTES:**

- (1) Enter the quantity of the product(s) being provided.
  - (2) Enter the unit of measure of the quantity of product(s) being provided (e.g., EA for each; RM for Ream).
  - (3) Enter the cost per unit.
  - (4) Enter the product name being provided and a brief description of the product.
  - (5) Enter the name of the company/organization/industry that made the product.
  - (6) **"Product category"** refers to product categories identified in PCC Section 12207 for State agencies to meet requirements. The product categories are list below. If the product does not fit into any of the product categories, put N/A.
    - (a) Category Code **PAPER PROD**: Paper products, including, but not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling.
    - (b) Category Code **P-WP**: Printing and writing papers including, but not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications.
    - (c) Category Code **MULCH-C-CC**: Mulch, compost, and co-compost products including soil amendments, erosion controls, soil toppings, ground covers, weed suppressants, and organic materials used for water conservation.
    - (d) Category Code **GLASS**: Glass products including, but not limited to, windows, test tubes, beakers, laboratory or hospital supplies, fiberglass (insulation), reflective beads, tiles, construction blocks, desktop accessories, flat glass sheets, loose-grain abrasives, deburring media, liquid filter media, and containers.
    - (e) Category Code **Oil**: Lubricating oils including, but not limited to, any oil intended for use in a crankcase, transmission, engine, power steering, gearbox, differential chainsaw, transformer dielectric fluid, cutting, hydraulic, industrial, or automobile, bus, truck, vessel, plane, train, heavy equipment, or machinery powered by an internal combustion engine.
    - (f) Category Code **PLASTIC**: Plastic products including, but not limited to, printer or duplication cartridges, diskette, carpet, office products, plastic lumber, buckets, wastebaskets, containers, benches, tables, fencing, clothing, mats, packaging, signs, posts, binders, sheet, buckets, building products, garden hose, and trays. (2) For purposes of this subdivision, "printer or duplication cartridges" has the same meaning as described in paragraph (2) of subdivision (f) of Section 12209.
  - (g) Category Code **PAINT**: Paint, including, but not limited to, water-based paint, graffiti abatement, interior and exterior, and maintenance.
  - (h) Category Code **AF**: Antifreeze, including recycled antifreeze, and antifreeze containing a bittering agent or made from polypropylene or other similar nontoxic substance.
  - (i) Category Code **TIRE**: Tires including, but not limited to, truck and bus tires, and those used on fleet vehicles and passenger cars.
  - (j) Tire-derived products including, but not limited to, flooring, mats, wheelchair ramps, playground cover, parking bumpers, bullet traps, hoses, bumpers, truck bedliners, pads, walkways, tree ties, road surfacing, wheel chocks, rollers, traffic control products, mudflaps, and posts.
  - (k) Category Code **METAL**: Metal including, but not limited to, staplers, paper clips, steel furniture, desks, pedestals, scissors, jacks, rebar, pipe, plumbing fixtures, chairs, ladders, file cabinets, shelving, containers, lockers, sheet metal, girders, building and construction products, bridges, braces, nails, and screws.
  - (7) Enter the total dollar amount for the product being listed – Total dollar amount per product only.
  - (8) **Postconsumer material** means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes.
  - (9) **Secondary material** means fragments of finished products or finished products of a manufacturing process, that has converted a resource into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process, such as fibers recovered from wastewater, trimmings of paper machine rolls, mill broke, plastic, or metal trimmings, or shavings, or other residue from a manufacturing process. Secondary material does not include postconsumer material, so that the secondary material plus the postconsumer material plus the virgin material adds up to 100 percent of the product.
  - (10) **Virgin Material** means product made from new or non-recycled material. The material is neither secondary nor postconsumer.
  - (11) The sum of the Postconsumer Material column, Secondary Material column, and Virgin Material column must equal 100 percent.
- Example for Postconsumer Material, Secondary Material, and Virgin Material Content Entries:**
- If copy paper contained 20 percent postconsumer material, the remainder will be virgin material. Indicate 20 percent in the Postconsumer column and 80 percent in the Virgin Material column. If it contained 20 percent postconsumer material and 40 percent secondary material, indicate 20 percent in the Postconsumer column, 40 percent in the Secondary Material column, and 40 percent in the Virgin Material column.
- For more information, please visit [www.ciwmb.ca.gov/buyrecycled/](http://www.ciwmb.ca.gov/buyrecycled/).

STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION

**PERFORMANCE BOND**(To Accompany Contract)  
ADM-2008 (REV. 4/03)**KNOW ALL MEN BY THESE PRESENTS,**

Bond No. \_\_\_\_\_

**THAT WHEREAS,** The State of California, acting by and through the Department of Transportation, has awarded to

as principal, hereinafter designated as the "Contractor", a contract for the work described as follows:

**AND WHEREAS,** The Contractor is required to furnish a bond in connection with said contract guaranteeing the faithful performance thereof:**NOW THEREFORE,** We the undersigned Contractor and surety are held and firmly bound unto the State of California, in the sum of \_\_\_\_\_ Dollars(\$ \_\_\_\_\_), to be paid to the said State or its certain attorney, its successors and assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if the above bound Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the State of California, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise, it shall be and remain in full force and virtue.

**IN WITNESS WHEREOF,** We have hereunto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Correspondence or claims relating to this bond should be sent to the surety at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_  
*Principal*\_\_\_\_\_  
\_\_\_\_\_  
(SEAL)\_\_\_\_\_  
\_\_\_\_\_  
SuretyBy \_\_\_\_\_  
\_\_\_\_\_  
Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged, and a Power of Attorney attached.

**CERTIFICATE OF ACKNOWLEDGMENT**

State of California

County of \_\_\_\_\_ SS

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_\_ before me, a notary

public in and for the county and state aforesaid, personally appeared \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Attorney-in-Fact

Known to me to be the person whose name is subscribed to the within instrument and known to me to be the Attorney-in-Fact of

\_\_\_\_\_ and acknowledged to me that he subscribed the name of the

said company thereto as surety, and his own name as Attorney-in-Fact.

(SEAL)

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public**ADA NOTICE** For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.



STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION  
**PAYMENT BOND**  
(Section 3247, Civil Code)  
ADM-2009 (REV. 8/97)

Bond No. \_\_\_\_\_

**WHEREAS**, the State of California, Department of Transportation, hereafter referred to as "Obligee", has awarded to Contractor \_\_\_\_\_ hereafter referred to as "Principal", a contract for the work described as follows:

**AND, WHEREAS**, said Principal is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, material men and other persons as provided by law.

**NOW, THEREFORE**, we the undersigned Principal and Surety are bound unto the Obligee in the sum of \_\_\_\_\_ dollars

(\$ \_\_\_\_\_) for which payment we bind ourselves, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if said Principal or its subcontractors shall fail to pay any of the persons named in Civil Code Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Principal and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor, that the surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 3181 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

Dated: \_\_\_\_\_, 20\_\_\_\_\_ .

Correspondence or claims relating to this bond should be sent to the surety at the following address:

\_\_\_\_\_

\_\_\_\_\_

—

\_\_\_\_\_

—

\_\_\_\_\_  
\_\_\_\_\_  
*Principal*

\_\_\_\_\_  
\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

CERTIFICATE OF ACKNOWLEDGMENT

State of California  
County of \_\_\_\_\_ SS

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_\_ before me \_\_\_\_\_, personally appeared \_\_\_\_\_, *Attorney-in-Fact* personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the Attorney-in-Fact of \_\_\_\_\_, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as Attorney-in-Fact.

(SEAL) \_\_\_\_\_  
Notary Public



**PAYEE DATA RECORD**

STD. 204 (Rev. 6-2003) (PAGE 2)

|          |   |
|----------|---|
| <b>1</b> | <p><b><u>Requirement to Complete Payee Data Record, STD. 204</u></b></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>   |
| <b>2</b> | <p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>   |
| <b>3</b> | <p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>  |
| <b>4</b> | <p><b><u>Are you a California resident or nonresident?</u></b></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <p>Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: wscs.gen@ftb.ca.gov</p> <p>For hearing impaired with TDD, call: 1-800-822-6268 Website: www.ftb.ca.gov</p> |
| <b>5</b> | <p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>  |
| <b>6</b> | <p>This section must be completed by the State agency requesting the STD. 204.</p>  |
|          | <p><b><u>Privacy Statement</u></b></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business. All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>   |